In the

Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-1674

SANTA ROSA BAND OF INDIANS, *et al.*,
Plaintiffs and Respondents,

vs.

KINGS COUNTY, *et al.*,
Defendants and Petitioners.

Supplemental Brief for the Petitioner

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INTRODUCTION

We file this supplemental brief, under Rule 24(4), to respond to a new argument raised by the respondents in their brief in opposition to our petition for writ of certiorari. Their new argument is based on this Court's recent decision in *Bryan v. Itasca County,* No. 75-5027 (June 14, 1976), rendered after we filed our petition.

In *Bryan,* the Court held that Pub.L. 280 does not authorize States affected thereunder to levy taxes on Indians or Indian property. The Court noted that this result is sustainable under section 4(b) of Pub.L. 280, which expressly exempts "taxation" of any Indian property held in trust by the United States[1]. The Court suggested that this exemption may include "taxation on activities taking place in conjunction with such property and income deriving from

its use," Slip Op. 17, which would include the Indian property involved in that case. This result, the Court stated, is amply supported by the "total absence of mention or discussion regarding a congressional intent to confer upon the States an authority to *tax* Indians or Indian property on reservations," and by a colloquy during the House committee hearings that "strongly suggests that Congress did not mean to grant *tax* authority to the States." *Id.* at 7-8. (Emphasis added.) Thus, the decision is fully sustainable on grounds not relevant to the instant case, since this case does not involve the taxation of Indian property.

As an alternative basis for its decision, the Court stated that section 4(a) of Pub.L. 280 empowers the courts of the affected States to adjudicate civil controversies to which Indians are parties, but does not otherwise empower the States to regulate the conduct or property of Indians on reservations. *Id.* at 10-12.[2] According to the decision, this

1. Section 4(b) provides:
"Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein." 28 U.S.C. § 1360(b).

2. Section 4(a) provides:
"Each of the States or Territories listed in the following table shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed opposite the name of the State or Territory to the same extent that such State or Territory has jurisdiction over other civil causes of action, and those civil laws of such State or Territory that are of general application to private persons or private property shall have the same force and effect within such Indian country as they have elsewhere within the State or Territory:

State or Territory of	Indian country affected
Alaska	All Indian country within the Territory.
California	All Indian country within the State
Minnesota	All Indian country within the State, except the Red Lake Reservation
Nebraska	All Indian country within the State
Oregon	All Indian country within the State, except the Warm Springs Reservation
Wisconsin	All Indian country within the State."

28 U.S.C. § 1360(a).

conclusion is sustained by the "sparse legislative history" of the act, and the "absence of anything remotely resembling an intention to confer general state civil regulatory control over Indian reservations." *Id.* at 10-11.

a. Report of Department of the Interior.

However, the most vital, relevant piece of the legislative history, with respect to the meaning of section 4(a), was not before the Court in the *Bryan* case, and was not referred to by the parties or the United States. We refer to a report from the U. S. Department of the Interior to the House Committee on Interior and Insular Affairs, dated June 29, 1953, which we recently found in the Department's files, and which is appended hereto.[3] This report suggested

3. The date of the report, June 29, 1953, is the same date that Mr. Sellery, the Department's representative, testified before the House Committee; his testimony was quoted at length in the *Bryan* decision. Slip. Op. 8-9. Mr. Sellery referred to the report in his testimony. Tr. 2-5. At the hearings, the Department was requested by the committee to prepare a follow-up memorandum, describing the reaction of the various Indian tribes to H.R. 1063. Tr. 6. The follow-up letter, dated July 7, 1953, was published in the official House report, H.R. Rep. No. 848, 83d Cong., 1st Sess. (1953), and referred to therein as the Department's "favorable report," *id.* at 7. The Department's original report of June 29, 1953, was inadvertently omitted from the House report.

sweeping changes in H.R. 1063, the bill which was finally enacted as Pub.L. 280. It was on the basis of this report that the House committee amended H.R. 1063 in the form that was finally approved by Congress. One of the suggested changes related to section 4(a). The report removes any doubt that the change was intended to authorize the affected States to regulate the conduct and property of Indians on reservations, subject to exceptions spelled out in section 4(b).

To fully appreciate the significance of the Department's report, it is necessary to first understand the extent to which H.R. 1063 was modelled after analogous legislation. In 1948, Congress enacted a law applicable to New York, which provides:

> "The courts of the State of New York under the laws of such State shall have jurisdiction in civil actions and proceedings between Indians and any other person or persons to the same extent as the courts of the State shall have jurisdiction in other civil actions and proceedings, as now or hereafter defined by the laws of such State." 25 U.S.C. § 233.

In 1949, Congress enacted another law applicable solely to the Agua Caliente reservation in California, Pub.L. 322, which provides:

> "All lands located on the Agua Caliente Indian Reservation . . ., and the Indian residents thereof, shall be subject to the laws, civil and criminal, of the State of California, . . . " 63 Stat. 705 (1949).

Thus, the New York law merely authorized the courts of New York to adjudicate controversies to which Indians are parties, which would apparently authorize New York to apply her civil laws to Indian reservations only to extent necessary to resolve legal disputes involving Indians;

this grant of authority would apparently exclude the applicability of New York's regulatory laws on such reservations. Conversely, the Agua Caliente law more broadly authorized California to apply *all* her civil laws on the Agua Caliente reservation, a grant of authority which would include California's regulatory laws. This conclusion appears even more clearly from the legislative history of the Agua Caliente act; as we shall see, that history shows that Congress intended to authorize California to apply her regulatory laws, particularly the zoning laws of her political subdivisions, on the Agua Caliente reservation. See pp. 8-9, *infra.*

In its original form, H.R. 1063 followed the New York model, not the Agua Caliente model. H.R. 1063 initially provided, in relevant part:

> "The courts of the State of California shall have jurisdiction, under the laws of the State, in civil actions and proceedings between Indians or between one or more Indians and any other person or persons to the same extent that the courts of such State have jurisdiction in other civil actions and proceedings." H.R. 1063, 83d Cong., 1st Sess. (Jan. 6, 1953).

The Department's report noted that the bill, in this form, "would permit the courts of the State of California to adjudicate civil controversies of any nature affecting Indians within the State, except where trust or restricted property is involved." App. 1. However, the report suggested that the bill be amended to provide, in section 4(a):

> "Each of the States listed in the following table shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over other civil causes of action, and

those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country as they have elsewhere within the State: . . ." App. 7-8. (Emphasis added.)

The Department's recommendation was approved by the House committee, and eventually by Congress. The emphasized portion of the suggested amendment clearly indicates that the amendment was intended to bring the bill into conformity with the Agua Caliente model, rather than the New York model. This conclusion appears even more clearly from the following statement in the Department's report:

> "The revisions incorporated in the enclosed draft would clarify the intent of the civil jurisdiction provisions in several particulars. They would make it clear that *the effect of the bill would be, not merely to permit the State courts to adjudicate civil controversies arising on Indian reservations in California, but also to extend to those reservations the substantive civil laws of the State insofar as those laws are of general application to private persons or private property.*" App. 2-3. (Emphasis added.)[4]

This statement thus clearly indicates that the amendment was intended to allow the States to apply *all* their civil laws, including regulatory laws, on Indian reservations, and was not limited to merely allowing the State courts to

4. This statement further indicates that the section was not amended merely to allow the State courts, in adjudicating Indian controversies, to apply State laws to such controversies. The section, in the original form quoted above, gave the State courts jurisdiction over Indian controversies "under the laws of the State," which was sufficient authority for the State courts to apply their civil laws to such controversies. In fact, the phrase, "under the laws of such State," appears in the New York act cited above, and is sufficient authority for New York to apply its own laws in adjudicating controversies involving Indians.

adjudicate controversies involving Indians. If the bill were only intended to accomplish the latter purpose, it need not have been amended along the lines suggested by the Department.[5]

Any remaining doubts concerning the amendment's purpose are removed by the following passage from the Department's report:

> "The Indians of California have also reached a stage that makes desirable the extension of State civil jurisdiction to the Indian country in that State. *This has already been accomplished on the Agua Caliente Indian Reservation by the Act of October 5, 1949 (63 Stat. 705). A like policy should be applied to the rest of the State.* In doing so due regard should be given, of course, to the safeguarding of the rights guaranteed the Indians by Federal treaties, agreements, and statutes." App. 2. (Emphasis added.)

Because of the overlapping nature of H.R. 1063 and Pub. L. 322, the report further recommended the repeal of the

5. The *Bryan* decision stated that its conclusion is supported by the "consistent and uncontradicted references in the legislative history to 'permitting' '*State courts to adjudicate* civil controversies' arising on Indian reservations,' " citing a reference in the House report. Slip Op. 10. (Emphasis in the original.) However, the cited reference in the House report merely indicates that, "*as introduced,*" a provision "was made" in H.R. 1063 for "permitting the California State courts to adjudicate civil controversies" involving Indians. H.R. No. 848, 83d Cong., 1st Sess. 5 (1953). (Emphasis added.) Thus, the reference in the House report was to H.R. 1063 in its *original* form, *i.e.* "as introduced." The House report subsequently noted that the bill, in its *final* form, contained a provision "permitting the State courts to adjudicate civil controversies arising on Indian reservations, *and* . . . [*extending*] *to those reservations the substantive civil laws of the respective States insofar as those laws are of general application to private persons or private property* . . . ." *Id.* at 6. (Emphasis added.) The report's divergent descriptions of the effect of H.R. 1063, in its original and final forms, is a further indication that the bill in its final form was not confined to merely granting the State courts jurisdiction to adjudicate Indian controversies.

relevant parts of Pub. L. 322, "in order to make the *same* civil and criminal jurisdictional statute applicable to all Indian country within the State." App. 4 (Emphasis added.) Accordingly, the relevant parts of Pub. L. 322 were repealed by the enactment of Pub. L. 280. 67 Stat. 590 (1953).

The latter statement in the Department's report thus indicates that Pub. L. 280 is based on a "like policy" to that underlying Pub. L. 322, and that Pub. L. 280 is, except for its applicability to other reservations in California, the "same civil and criminal jurisdictional statute" as Pub. L. 322. Accordingly, there can be do doubt that Congress, in passing Pub. L. 280, intended to follow the Agua Caliente model, not the New York model. This conclusion in turn strengthens the conclusion that Congress meant to allow the States to apply their regulatory laws, particularly their zoning laws, on Indian reservations. The Agua Caliente reservation consists of a series of parcels, mostly trust allotments, that are located wholly within the City of Palm Springs, and, as noted in the legislative history applicable to Pub. L. 322, are "intermingled in a checkerboard pattern with highly developed urban land of great value." H.R. Rep. No. 956, 81st Cong., 1st Sess. 2 (1949). See Amicus Brief of City of Palm Springs, App. "A." Accordingly, Pub. L. 322 was enacted to prevent the disorderly and chaotic development of lands within the city's borders, by subjecting Indian lands within the city's borders to the city's zoning laws. During the congressional hearings relating to Pub. L. 322, the Assistant Commissioner of Indian Affairs stated that then-existing limitations on the city's ability to regulate zoning of reservation lands resulted in the lack of an "overall pattern . . . needed for protecting property values and increasing the maximum utilization of the city as a whole." *Hearings on H.R. 4616 Before the Subcommittee on Indian Affairs of the Committee on Public Lands,* 81st Cong., 1st Sess., ser. 16, at 3 (1949). The congressman who represented the area in question further testified at the hearings:

> "[T]his section of the bill is for the purpose of conferring jurisdiction over the police, fire and sanitary regulations, and so on, upon the State of California." *Id.* at 132.

Since the legislative history of Pub. L. 322 clearly shows that California's regulatory laws were applicable on the Agua Caliente reservation, the Department's report shows that Congress, in passing Pub. L. 280, meant to achieve the same result with respect to *all* reservations in California. If the result were otherwise, the enactment of Pub. L. 280 would have resurrected the same land use problems in the City of Palm Springs, resulting from the checkerboard nature of Indian and non-Indian lands, that were laid to rest by the enactment of Pub. L. 322.[6]

b. The Arizona Leasing Act.

Our conclusion is further supported by the enactment in 1966 of legislation relating to the leasing of certain Indian

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6. The report also recommended that the title of the bill be changed to "a bill to confer jurisdiction on the State of California with respect to criminal offenses and civil causes of action committed or arising on Indian reservations within such State, and for other purposes." App. 5. This title was approved by the House committee, and ultimately by Congress. It is thus apparent that the States' regulatory laws were meant to be encompassed within the title's reference to "and for other purposes," or that such laws were meant to be enforced through the medium of civil or criminal actions brought in the States' courts. To suggest otherwise would emasculate the report's statement that the suggested changes "would make it clear that the effect of the bill would be, not merely to permit the State courts to adjudicate civil controversies arising on Indian reservations in California, but also to extend to those reservations the substantive civil laws of the State . . . ." See p. 6, *supra.*

lands in Arizona, 25 U.S.C. §§ 416-416j, an act which is one of the "intervening" legislative enactments which the *Bryan* decision held to be relevant in interpreting P.L. 280. Slip Op. 13. Section 9 of the 1966 act provides that Indians under the act are authorized "to enact *zoning, building, and sanitary regulations* covering the lands on their reservations . . . *in the absence of State civil and criminal jurisdiction over such particular lands.* . . ." 25 U.S.C. § 416h. (Emphasis added.) Arizona has not received jurisdiction over Indian reservations under Pub. L. 280. The cited provision is thus a clear congressional recognition that, since Arizona has not received "civil and criminal jurisdiction," the tribes have authority to enact "zoning, building, and sanitary regulations," but that, if Arizona receives such jurisdiction, Arizona will have authority to enact its own zoning, building and sanitary regulations. Neither the parties nor the United States referred to this congressional enactment in the *Bryan* case.

c. Section 4(b).

Turning to section 4(b), that section provides specific exceptions to the authority granted to the States in section 4(a). In particular, section 4(b) contains a fundamental distinction between State laws relating to "taxation" of Indian trust property, and State laws consisting of a "regulation of the use" of such property. See n. 1, *supra*. The section imposes an *absolute* prohibition on State "taxation" of such property. However, the section prohibits State "regulation of the use" of such property only to the extent that the regulation is "inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto." The significance of this distinction is heightened by the fact that H.R. 1063, in its original form, contained an absolute prohibition against *any* "regulation

of its [Indian trust property] use."[7] However, the House committee changed the provision to its present form, which authorizes limited State "regulation of the use" of such property. It is thus clear that Congress intended to continue the historic immunity of Indian trust property from State tax laws, but—recognizing the compelling interests of the States in protecting, *inter alia*, the quality of their air and water resources—intended to grant the States limited authority to regulate the use of such property. This conclusion shows that the *Bryan* decision was correctly decided on its facts, but also shows that the decision should not be controlling here.

d. Inconsistency of Bryan Decision and Ninth Circuit Decision.

Although the *Bryan* decision cites the decision of the Ninth Circuit in this case with approval, Slip Op. 15 n. 14, the decisions are fundamentally inconsistent with respect to the applicability of State regulatory laws on Indian reservations. The Ninth Circuit held that, under section 4(a), "State" regulatory laws are applicable on Indian reservations under Pub.L. 280, but "county" regulatory laws are not. Pet. for Writ of Cert., App. 6-18. The court pointedly observed:

> "[W]hen such conflicts [between Indians and non-Indians] involve a matter in which the state has a

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7. In its original form, H.R. 1063 provided:
> "That as long as the title to any real or personal property, including water rights, belonging to any Indian or Indian tribe, band, group, or community is held in trust by the United States or is subject to restrictions against alienation under any law, treaty, or agreement of the United States, nothing in this section shall authorize the alienation, encumbrance, or taxation of such property or the adjudication or *regulation of its use*, or shall confer jurisdiction upon the State courts in any civil action, probate, or other proceeding affecting the ownership, title, possession, or any other interest in such property." H.R. 1063, 83d Cong., 1st Sess. (Jan. 6, 1953). (Emphasis added.)

> sufficient stake or interest to legislate, the state may, subject to the limitations of § 1360(b), pass a law of statewide application resolving the matter."
> *Id.* at 17-18.

The court held, however, that, under section 4(b), neither "State" nor "county" laws may be applied to Indian trust property, if such laws directly regulate "property" rather than "conduct." *Id.* at 24 nn. 19, 20. Hence, the court clearly indicated that "State" laws applicable to Indian "conduct," which may include many of California's air and water quality laws, are applicable on Indian reservations, under section 4(a). The *Bryan* decision concludes otherwise, however. Thus, the *Bryan* decision would strike down many "State" laws that the Ninth Circuit's decision would uphold. The inconsistency between the decisions warrants, we believe, a closer examination by this Court of the meaning of section 4(a), in the context of a State regulatory law that is unrelated to taxation.

CONCLUSION

The instant case squarely presents a question that was not before the Court in the *Bryan* case, *i.e.* whether State regulatory laws, as opposed to State tax laws, are applicable on Indian reservations under Pub.L. 280. The most informative piece of legislative history relating to this question, *i.e.* the report of the Department of the Interior of June 29, 1953, was not before the Court in the *Bryan* case.

Moreover, both the language and legislative history of Pub.L. 280 are fundamentally different with respect to the applicability of these laws, as we have noted. The policy considerations are also different, for the States have a more compelling interest in providing limited regulation

of the use of Indian lands than in increasing their revenues at the Indians' expense; the regulation of the use of such lands enables the States to protect the quality of their off-reservation resources, such as air and water, that may be affected by on-reservation activities. Further, since the *Bryan* decision held that Indians are subject to State *criminal* laws under Pub.L. 280, the States could, even under the Court's decision, effectively apply their civil regulatory laws on Indian reservations by the simple expedient of making it a crime to violate these laws; since it is unlikely that Congress meant to allow the States to accomplish by one means what they cannot accomplish by others, it is likely that Congress intended to make the applicability of the States' civil regulatory laws co-extensive with the applicability of their criminal laws.[8]

In light of the many land use laws which States have applied, and are applying, to Indian reservations under Pub.L. 280, this is a very important case that, in our view, merits the attention of this Court. The importance of this case is heightened by the fact that Congress recently created a commission, the American Indian Policy Review Commission, to undertake "a comprehensive review of the historical and legal developments underlying the Indians' unique relationship with the Federal Government in order to determine the nature and scope of necessary revisions in the formulation of policies and programs for the benefit of Indians." 88 Stat. 1910 (1975). One of the items to be considered by

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8. This view is also supported by a law review article that was cited extensively in the *Bryan* decision. Slip Op. 5, 14 n. 13, 15 n. 14; Goldberg, "Public Law 280: The Limits of State Jurisdiction over Reservation Indians," 22 *U.C.L.A. L.Rev.* 535 (1975). The article, after a lengthy consideration of the meaning of Section 4(a), *id.* at 576-580, concluded that "it is most likely that criminal and civil jurisdiction were designed to be co-extensive, and similarly regulatory in nature," *id.* at 580.

the commission is the nature and effect of Pub.L. 280. It is important, we believe, that the commission have the benefit of a clear understanding of the applicability of State regulatory laws on Indian reservations, under Pub.L. 280.

For the foregoing reasons, we urge that our petition be granted.

Respectfully submitted,

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(Appendices follow)

IN REPLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON 25, D. C.

JUN 2 3 1953

My dear Mr. Miller:

This will refer to your request for a report on H. R. 1063, a bill "To amend title 18, United States Code, entitled 'Crimes and Criminal Procedure', with respect to State jurisdiction over offenses committed by or against Indians in the Indian country, and to confer on the State of California civil jurisdiction over Indians in the State".

I recommend that this bill be enacted if its title and text are amended to conform to the enclosed draft.

The bill would extend the criminal laws of the State of California to all the Indian country within that State. Concurrently, it would withdraw the entire State from the operation of the Federal Indian liquor laws. Finally, it would permit the courts of the State of California to adjudicate civil controversies of any nature affecting Indians within the State, except where trust or restricted property is involved.

Approximately 30,000 Indians live in the State of California. They are divided into many different groups, widely dispersed throughout the State. Their lands include a large number of small rancherias and allotments, which are also widely scattered. The State lacks jurisdiction to prosecute Indians for most offenses committed on Indian reservations or other Indian country as defined in title 18, United States Code, section 1151, except in the case of the Agua Caliente Indian Reservation. State criminal jurisdiction over this one reservation was conferred by the Act of October 5, 1949 (63 Stat. 705).

The applicability of Federal criminal laws is also limited. The United States district courts have a measure of jurisdiction over offenses committed on Indian reservations or other Indian country by or against Indians, but in cases of offenses committed by Indians against Indians that jurisdiction is limited to the so-called ten major

crimes listed in section 1153 of title 18, United States Code. As a practical matter, the enforcement of law and order among Indians in the Indian country has been left largely to the Indian groups themselves, and in California they are not adequately organized to perform that function. The Indians of the Hoopa Valley Reservation and the Yuma Reservation have a form of tribal law enforcement, but none of the other reservations in the State has any means of preserving law and order. Consequently, there is a serious hiatus in law enforcement authority that can best be remedied by conferring criminal jurisdiction on the State. The Indians of California have also reached a stage that makes desirable the extension of State civil jurisdiction to the Indian country in that State. This has already been accomplished on the Agua Caliente Indian Reservation by the Act of October 5, 1949 (63 Stat. 705). A like policy should be applied to the rest of the State. In doing so due regard should be given, of course, to the safeguarding of the rights guaranteed the Indians by Federal treaties, agreements, and statutes.

At the direction of the Commissioner of Indian Affairs, the Area Director of the Bureau of Indian Affairs at Sacramento, California, consulted with the various Indian groups on a legislative proposal similar to H. R. 1063. No opposition to the enactment of the proposed legislation was voiced by any of the Indian groups. The Hoopa Valley Indians, comprising the largest single group within the State, have adopted resolutions favoring the proposal to confer civil and criminal jurisdiction on the State. Representatives of other groups have also indicated their approval.

Proposed legislation similar to H. R. 1063 has been discussed with the Governor of California and he has indicated his approval of the objective of the proposal. The Legislature of California, by Senate Joint Resolution No. 29, has recently memorialized the Congress to enact H. R. 1063.

The revisions incorporated in the enclosed draft would clarify the intent of the civil jurisdiction provisions in several particulars. They would make it clear that the effect of the bill would be, not merely to permit the State courts to adjudicate civil controversies arising on Indian reservations in California, but also to

extend to those reservations the substantive civil laws of the State insofar as these laws are of general application to private persons or private property. The revision would also make it clear that Indian tribal customs and ordinances would continue to be applicable to civil transactions among the Indians insofar as these customs or ordinances are not inconsistent with the applicable State laws. By so doing the predominance of State authority would be assured, but with a minimum of interference with Indian control of Indian affairs.

The enclosed draft is designed to perfect H. R. 1063 in a manner consistent with its basic intent. The only major substantive difference is the omission of the provisions that would have excluded the entire State from the operation of the Federal Indian liquor laws. There is no doubt that the Indians of California are as prepared to be subjected to the State laws regarding intoxicants as they are to be subjected to the other laws of the State. However, general legislation to repeal, in whole or in part, the Indian liquor laws is now before the Congress, and it seems preferable to deal with the subject in that manner rather than in a bill, such as H. R. 1063, having a different primary objective.

In large measure the criminal jurisdiction provisions of the enclosed draft are identical with those of H. R. 1063. The subsection that would have reserved to the Federal courts concurrent jurisdiction over offenses by or against Indians has been omitted as its effect would be to make persons in the Indian country subject to two different, and possibly conflicting, systems of law. For like reasons, a subsection has been added that would render inapplicable in California the Federal criminal laws which apply to offenses committed by or against Indians within the Indian country. Finally, the subsection relating to the protection of trust or restricted Indian property and of Indian fishing and hunting rights has been revised in an effort to make its provisions as precise and certain as possible.

The provisions of the enclosed draft relating to civil jurisdiction are based on those of H. R. 1063, but have been recast in a form that would permit them to be incorporated in the general body of the judicial laws as now codified in title 28 of the United States Code. These provisions are designed to give the State of California

jurisdiction over civil controversies and transactions involving Indians to the fullest extent consistent with the discharge of Federal responsibility for the protection of trust or restricted property. The State and its courts could not take any action that would affect the status of this property in any way or that would improperly deprive the Indians of any of the benefits therefrom. However, once the trust or restriction was terminated by the United States, the jurisdiction of the State and its courts would automatically attach.

Both H. R. 1063 and the enclosed draft would repeal section 1 of the Act of October 5, 1949 (63 Stat. 705), which conferred on the State of California civil and criminal jurisdiction over the land and residents of the Agua Caliente Indian Reservation. The enactment of H. R. 1063, applicable to the entire State, should be accompanied by the repeal of section 1 of this Act in order to make the same civil and criminal jurisdictional statute applicable to all Indian country within the State.

Since I am informed that there is a particular urgency for the submission of the views of the Department, this report has not been cleared through the Bureau of the Budget and, therefore, no commitment can be made concerning the relationship of the views expressed herein to the program of the President.

Sincerely yours,

Secretary of the Interior

Hon. A. L. Miller, Chairman
Committee on Interior and Insular Affairs
House of Representatives
Washington 25, D. C.

Enclosure

A BILL

To confer jurisdiction on the State of California with respect to criminal offenses and civil causes of action committed or arising on Indian reservations within such State, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 53 of title 18, United States Code, is hereby amended by inserting at the end of the chapter analysis preceding section 1151 of such title the following new item:

"1161. State jurisdiction over offenses committed by or against Indians in the Indian country."

SEC. 2. Title 18, United States Code, is hereby amended by inserting in chapter 53 thereof immediately after section 1160 a new section, to be designated as section 1161, as follows:

"§ 1161. State jurisdiction over offenses committed by or against Indians in the Indian country.

"(a) Each of the States listed in the following table shall have jurisdiction over offenses committed by or against Indians in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over

offenses committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country as they have elsewhere within the State:

State of	Indian Country Affected
California	All Indian country within the State

"(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

"(c) The provisions of sections 1152 and 1153 of this chapter shall not be applicable within the areas of Indian country listed in subsection (a) of this section."

SEC. 3. Chapter 85 of title 28, United States Code, is hereby amended by inserting at the end of the chapter analysis preceding section 1331 of such title the following new item:

"1360. State civil jurisdiction in actions to which Indians are parties."

SEC. 4. Title 28, United States Code, is hereby amended by inserting in chapter 85 thereof immediately after section 1359 a new section, to be designated as section 1360, as follows:

"§ 1360. State civil jurisdiction in actions to which Indians are parties.

"(a) Each of the States listed in the following table shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force

and effect within such Indian country as they have elsewhere within the State:

State of	Indian Country Affected
California	All Indian country within the State

"(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

"(c) Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force

and effect in the determination of civil causes of action pursuant to this section."

SEC. 5. Section 1 of the Act of October 5, 1949 (63 Stat. 705, ch. 604) is hereby repealed, but such repeal shall not affect any proceedings heretofore instituted under that section.